

**Proposed Substitute
Bill No. 5542**

LCO No. 3469

**AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S
RECOMMENDATIONS CONCERNING THE PREVENTION OF
SMOKING AND TOBACCO USE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-342 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 (a) As used in this section, "smoke" or "smoking" means the lighting
4 or carrying of a lighted cigarette, cigar, pipe or similar device.

5 (b) (1) Notwithstanding the provisions of section 31-40q, as
6 amended by this act, no person shall smoke: (A) In any building or
7 portion of a building owned and operated or leased and operated by
8 the state or any political subdivision thereof; (B) in any area of a health
9 care institution; (C) in any area of a retail food store; (D) in any
10 restaurant; (E) in any area of an establishment with a permit issued for
11 the sale of alcoholic liquor pursuant to section 30-20a, 30-21, 30-21b, 30-
12 22, 30-22c, 30-28, 30-28a, 30-33a, 30-33b, 30-35a, 30-37a, 30-37e or 30-37f,
13 in any area of an establishment with a permit for the sale of alcoholic
14 liquor pursuant to section 30-23 issued after May 1, 2003, and, on and
15 after April 1, 2004, in any area of an establishment with a permit issued
16 for the sale of alcoholic liquor pursuant to section 30-22a or 30-26 or
17 the bar area of a bowling establishment holding a permit pursuant to

18 subsection (a) of section 30-37c; (F) ~~[within]~~ in any area of a school
19 building; ~~[while school is in session or student activities are being~~
20 ~~conducted;]~~ (G) in any passenger elevator, provided no person shall be
21 arrested for violating this subsection unless there is posted in such
22 elevator a sign which indicates that smoking is prohibited by state law;
23 (H) in any dormitory in any public or private institution of higher
24 education; or (I) on and after April 1, 2004, in any area of a dog race
25 track or a facility equipped with screens for the simulcasting of off-
26 track betting race programs or jai alai games. For purposes of this
27 subsection, "restaurant" means space, in a suitable and permanent
28 building, kept, used, maintained, advertised and held out to the public
29 to be a place where meals are regularly served to the public.

30 (2) ~~[This]~~ Subdivision (1) of this section shall not apply to the
31 following establishments: (A) Any correctional ~~[facilities]~~ facility; (B)
32 any designated smoking ~~[areas]~~ area in a psychiatric ~~[facilities]~~ facility;
33 (C) any public housing ~~[projects]~~ project, as defined in subsection (b) of
34 section 21a-278a; (D) ~~[classrooms]~~ any classroom where demonstration
35 smoking is taking place as part of a medical or scientific experiment or
36 lesson; (E) any medical research site where smoking is integral to the
37 research being conducted; (F) any smoking ~~[rooms]~~ room provided by
38 employers for employees, pursuant to section 31-40q, as amended by
39 this act; ~~[(F)]~~ (G) notwithstanding the provisions of subparagraph (E)
40 of subdivision (1) of this subsection, the outdoor portion of the
41 premises of any permittee listed in subparagraph (E) of subdivision (1)
42 of this subsection, provided, in the case of any seating area maintained
43 for the service of food, at least seventy-five per cent of the outdoor
44 seating capacity is an area in which smoking is prohibited and which is
45 clearly designated with written signage as a nonsmoking area, except
46 that any temporary seating area established for special events and not
47 used on a regular basis shall not be subject to the smoking prohibition
48 or signage requirements of this subparagraph; or ~~[(G)]~~ (H) any tobacco
49 bar, provided no tobacco bar shall expand in size or change its location
50 from its size or location as of December 31, 2002. For purposes of this
51 subdivision, "outdoor" means an area which has no roof or other
52 ceiling enclosure, "tobacco bar" means an establishment with a permit

53 for the sale of alcoholic liquor to consumers issued pursuant to chapter
54 545 that, in the calendar year ending December 31, 2002, generated ten
55 per cent or more of its total annual gross income from the on-site sale
56 of tobacco products and the rental of on-site humidors, and "tobacco
57 product" means any substance that contains tobacco, including, but not
58 limited to, cigarettes, cigars, pipe tobacco or chewing tobacco.

59 (c) The operator of a hotel, motel or similar lodging may allow
60 guests to smoke or use an electronic nicotine delivery system or vapor
61 product, as defined in section 19a-342a, as amended by this act, in not
62 more than twenty-five per cent of the rooms offered as
63 accommodations to guests.

64 (d) In each room, elevator, area or building in which smoking is
65 prohibited by this section, the person in control of the premises shall
66 post or cause to be posted in a conspicuous place signs stating that
67 smoking is prohibited by state law. Such signs, except in elevators,
68 restaurants, establishments with permits to sell alcoholic liquor to
69 consumers issued pursuant to chapter 545, hotels, motels or similar
70 lodgings, and health care institutions, shall have letters at least four
71 inches high with the principal strokes of letters not less than one-half
72 inch wide. Nothing in this subsection shall be construed to require the
73 person in control of a building to post such signs in every room of a
74 building, provided such signs are posted in a conspicuous place in
75 such building.

76 (e) Any person found guilty of smoking in violation of this section,
77 failure to post signs as required by this section or the unauthorized
78 removal of such signs shall have committed an infraction.

79 (f) Nothing in this section shall be construed to require any smoking
80 area [in] inside or outside any building or the entryway to any
81 building.

82 [(g) The provisions of this section shall supersede and preempt the
83 provisions of any municipal law or ordinance relative to smoking
84 effective prior to, on or after October 1, 1993.]

85 Sec. 2. Subdivision (4) of subsection (a) of section 31-40q of the
86 general statutes is repealed and the following is substituted in lieu
87 thereof (*Effective October 1, 2016*):

88 (4) "Business facility" means a structurally enclosed location or
89 portion thereof at which employees perform services for their
90 employer. The term "business facility" does not include: (A) Facilities
91 listed in subparagraph (A), (C), ~~[or] (G) or (H)~~ of subdivision (2) of
92 subsection (b) of section 19a-342, as amended by this act, or section
93 19a-342a, as amended by this act; (B) any establishment with a permit
94 for the sale of alcoholic liquor pursuant to section 30-23 issued on or
95 before May 1, 2003; (C) for any business that is engaged in the testing
96 or development of tobacco or tobacco products, the areas of such
97 business designated for such testing or development; or (D) during the
98 period from October 1, 2003, to April 1, 2004, establishments with a
99 permit issued for the sale of alcoholic liquor pursuant to section 30-22a
100 or 30-26 or the bar area of a bowling establishment holding a permit
101 pursuant to subsection (a) of section 30-37c.

102 Sec. 3. Subsection (d) of section 31-40q of the general statutes is
103 repealed and the following is substituted in lieu thereof (*Effective*
104 *October 1, 2016*):

105 (d) Nothing in this section may be construed to prohibit an
106 employer from designating an entire business facility and the real
107 property on which such business facility is located as a nonsmoking
108 area.

109 Sec. 4. Subsection (b) of section 53-344 of the general statutes is
110 repealed and the following is substituted in lieu thereof (*Effective*
111 *October 1, 2016*):

112 (b) Any person who sells, gives or delivers to any [minor] person
113 under eighteen years of age tobacco [, unless the minor is delivering or
114 accepting delivery in such person's capacity as an employee,] in any
115 form shall be fined not more than two hundred dollars for the first
116 offense, not more than three hundred fifty dollars for a second offense

117 within an eighteen-month period and not more than five hundred
118 dollars for each subsequent offense within an eighteen-month period.
119 The provisions of this subsection shall not apply to a person under
120 eighteen years of age who is delivering or accepting delivery (1) in
121 such person's capacity as an employee, or (2) as part of a scientific
122 study being conducted in an institution of higher education for the
123 purpose of medical research to further efforts in tobacco use
124 prevention and cessation, provided such medical research has been
125 approved by the institution's independent review board.

126 Sec. 5. Subsection (b) of section 53-344b of the 2016 supplement to
127 the general statutes is repealed and the following is substituted in lieu
128 thereof (*Effective October 1, 2016*):

129 (b) Any person who sells, gives or delivers to any [minor] person
130 under eighteen years of age an electronic nicotine delivery system or
131 vapor product [, unless the minor is delivering or accepting delivery in
132 such person's capacity as an employee,] in any form shall be fined not
133 more than two hundred dollars for the first offense, not more than
134 three hundred fifty dollars for a second offense within an eighteen-
135 month period and not more than five hundred dollars for each
136 subsequent offense within an eighteen-month period. The provisions
137 of this subsection shall not apply to a person under eighteen years of
138 age who is delivering or accepting delivery (1) in such person's
139 capacity as an employee, or (2) as part of a scientific study being
140 conducted in an institution of higher education for the purpose of
141 medical research to further efforts in tobacco use prevention and
142 cessation, provided such medical research has been approved by the
143 institution's independent review board.

144 Sec. 6. Section 19a-342a of the 2016 supplement to the general
145 statutes is repealed and the following is substituted in lieu thereof
146 (*Effective October 1, 2016*):

147 (a) As used in this section and section 2 of public act 15-206:

148 (1) "Child care facility" means a provider of child care services as

149 defined in section 19a-77, or a person or entity required to be licensed
150 under section 17a-145;

151 (2) "Electronic nicotine delivery system" means an electronic device
152 that may be used to simulate smoking in the delivery of nicotine or
153 other substances to a person inhaling from the device, and includes,
154 but is not limited to, an electronic cigarette, electronic cigar, electronic
155 cigarillo, electronic pipe or electronic hookah and any related device
156 and any cartridge or other component of such device;

157 (3) "Liquid nicotine container" means a container that holds a liquid
158 substance containing nicotine that is sold, marketed or intended for
159 use in an electronic nicotine delivery system or vapor product, except
160 "liquid nicotine container" does not include such a container that is
161 prefilled and sealed by the manufacturer and not intended to be
162 opened by the consumer; and

163 (4) "Vapor product" means any product that employs a heating
164 element, power source, electronic circuit or other electronic, chemical
165 or mechanical means, regardless of shape or size, to produce a vapor
166 that may or may not include nicotine, that is inhaled by the user of
167 such product, but shall not include a medicinal or therapeutic product
168 used by a (A) licensed health care provider to treat a patient in a health
169 care setting, or (B) patient, as prescribed or directed by a licensed
170 health care provider, in any setting.

171 (b) (1) No person shall use an electronic nicotine delivery system or
172 vapor product: (A) In any building or portion of a building owned and
173 operated or leased and operated by the state or any political
174 subdivision thereof; (B) in any area of a health care institution; (C) in
175 any area of a retail food store; (D) in any restaurant; (E) in any area of
176 an establishment with a permit issued for the sale of alcoholic liquor
177 pursuant to section 30-20a, 30-21, 30-21b, 30-22, 30-22a, 30-22c, 30-26,
178 30-28, 30-28a, 30-33a, 30-33b, 30-35a, 30-37a, 30-37e or 30-37f, in any
179 area of establishment with a permit issued for the sale of alcoholic
180 liquor pursuant to section 30-23 issued after May 1, 2003, or the bar
181 area of a bowling establishment holding a permit pursuant to

182 subsection (a) of section 30-37c; (F) [within] in any area of a school
183 building; [while school is in session or student activities are being
184 conducted;] (G) within a child care facility, except, if the child care
185 facility is a family child care home as defined in section 19a-77, such
186 use is prohibited only when a child enrolled in such home is present;
187 (H) in any passenger elevator, provided no person shall be arrested for
188 violating this subsection unless there is posted in such elevator a sign
189 which indicates that such use is prohibited by state law; (I) in any
190 dormitory in any public or private institution of higher education; or
191 (J) in any area of a dog race track or a facility equipped with screens for
192 the simulcasting of off-track betting race programs or jai alai games.
193 For purposes of this subsection, "restaurant" means space, in a suitable
194 and permanent building, kept, used, maintained, advertised and held
195 out to the public to be a place where meals are regularly served to the
196 public.

197 (2) This section shall not apply to the following establishments: (A)
198 Any correctional [facilities] facility; (B) any designated smoking [areas]
199 area in a psychiatric [facilities] facility; (C) any public housing
200 [projects] project, as defined in subsection (b) of section 21a-278a; (D)
201 [classrooms] any classroom where a demonstration of the use of an
202 electronic nicotine delivery system or vapor product is taking place as
203 part of a medical or scientific experiment or lesson; (E)
204 [establishments] any medical research site where the use of an
205 electronic nicotine delivery system or vapor product is integral to the
206 research being conducted; (F) any establishment without a permit for
207 the sale of alcoholic liquor that sell electronic nicotine delivery
208 systems, vapor products or liquid nicotine containers on-site and allow
209 their customers to use such systems, products or containers on-site;
210 [(F)] (G) any smoking [rooms] room provided by employers for
211 employees, pursuant to section 31-40q, as amended by this act; [(G)]
212 (H) notwithstanding the provisions of subparagraph (E) of subdivision
213 (1) of this subsection, the outdoor portion of the premises of any
214 permittee listed in subparagraph (E) of subdivision (1) of this
215 subsection, provided, in the case of any seating area maintained for the
216 service of food, at least seventy-five per cent of the outdoor seating

217 capacity is an area in which smoking is prohibited and which is clearly
218 designated with written signage as a nonsmoking area, except that any
219 temporary seating area established for special events and not used on a
220 regular basis shall not be subject to the prohibition on the use of an
221 electronic nicotine delivery system or vapor product or the signage
222 requirements of this subparagraph; or ~~[(H)]~~ (I) any tobacco bar,
223 provided no tobacco bar shall expand in size or change its location
224 from its size or location as of October 1, 2015. For purposes of this
225 subdivision, "outdoor" means an area which has no roof or other
226 ceiling enclosure, "tobacco bar" means an establishment with a permit
227 for the sale of alcoholic liquor to consumers issued pursuant to chapter
228 545 that, in the calendar year ending December 31, 2015, generated ten
229 per cent or more of its total annual gross income from the on-site sale
230 of tobacco products and the rental of on-site humidors, and "tobacco
231 product" means any substance that contains tobacco, including, but not
232 limited to, cigarettes, cigars, pipe tobacco or chewing tobacco.

233 (c) The operator of a hotel, motel or similar lodging may allow
234 guests to use an electronic nicotine delivery system or vapor product
235 or smoke, as defined in section 19a-342, as amended by this act, in not
236 more than twenty-five per cent of the rooms offered as
237 accommodations to guests.

238 (d) In each room, elevator, area or building in which the use of an
239 electronic nicotine delivery system or vapor product is prohibited by
240 this section, the person in control of the premises shall post or cause to
241 be posted in a conspicuous place signs stating that such use is
242 prohibited by state law. Such signs, except in elevators, restaurants,
243 establishments with permits to sell alcoholic liquor to consumers
244 issued pursuant to chapter 545, hotels, motels or similar lodgings, and
245 health care institutions, shall have letters at least four inches high with
246 the principal strokes of letters not less than one-half inch wide.
247 Nothing in this subsection shall be construed to require the person in
248 control of a building to post such signs in every room of a building,
249 provided such signs are posted in a conspicuous place in such
250 building.

251 (e) Any person found guilty of using an electronic nicotine delivery
252 system or vapor product in violation of this section, failure to post
253 signs as required by this section or the unauthorized removal of such
254 signs shall have committed an infraction.

255 (f) Nothing in this section shall be construed to require the
256 designation of any area for the use of electronic nicotine delivery
257 system or vapor product [in] inside or outside any building or the
258 entryway to any building.

259 [(g) The provisions of this section shall supersede and preempt the
260 provisions of any municipal law or ordinance relative to the use of an
261 electronic nicotine delivery system or vapor product effective prior to,
262 on or after October 1, 2015.]

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2016</i>	19a-342
Sec. 2	<i>October 1, 2016</i>	31-40q(a)(4)
Sec. 3	<i>October 1, 2016</i>	31-40q(d)
Sec. 4	<i>October 1, 2016</i>	53-344(b)
Sec. 5	<i>October 1, 2016</i>	53-344b(b)
Sec. 6	<i>October 1, 2016</i>	19a-342a